

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

V.

NO. 6:21-CR-00151-TDD

BILLY JAMES MENEES (1)
ASHLEY DAWN MARIE SCHARDEIN (2)

DEFENDANT MENEES’S MOTION TO RECONSIDER PRETRIAL RELEASE

TO THE HONORABLE TIMOTHY D. DEGIUSTI,
UNITED STATES DISTRICT JUDGE:

COMES NOW, Defendant, Billy James Menees, (“Mr. Menees”) by and through his attorney of record, Cody L. Cofer (“Counsel”), and hereby moves the Court to order the release of Mr. Menees pending trial.

The Government opposes this motion.

In support, Mr. Menees would show:

I. Background

On May 19, 2021, Magistrate Judge Donald D. Bush conducted a detention hearing pursuant to 18 U.S.C. § 3142(f), and Judge Bush determined Mr. Menees should remain detained pending trial. (ECF 36). Judge Bush found, “There is a serious risk that the defendant will endanger the safety of another person or the community.” (ECF 36).

At the detention hearing, Mr. Menees called one witness, Troy Menees. (ECF 35). In stating the reasons for detaining Mr. Menees, Judge Bush expressed that he was impressed with the testimony of Troy Menees. Further, Judge Bush explained that he would feel comfortable releasing Mr. Menees on conditions with Troy Menees as a third-party

custodian. However, the alleged victim K.M. resides in the home with Troy Menees so Judge Bush could not release Mr. Menees to the home of Troy Menees. At the time of the hearing, Mr. Menees did not have an alternative for a third-party custodian.

Mr. Menees has been in federal custody since May 2021. (ECF 5). Trial is currently scheduled for June 20, 2022. (ECF 108). Before being taken into federal custody, Mr. Menees had been charged in Oklahoma state court for the same conduct underlying the indictments and complaint in this case. Mr. Menees was released on bond by the Oklahoma state court, apparently without incident.

II. Change of Circumstance

Most factors listed in Section 3142(g) have not changed, and those factors in large part support Mr. Menees's release on conditions. The comments of Judge Bush seem to pertain to Section 3142(g)(4), "the nature and seriousness of the danger to any person or the community that would be posed by the person's release." Circumstances as to this factor have changed since the initial detention hearing.

Earlier this month, Counsel for Mr. Menees was contacted by Paula Dusenberry, a family friend of Mr. Menees. Ms. Dusenberry informed Counsel that she is willing to act as a third-party custodian if Mr. Menees is released on conditions. Ms. Dusenberry indicated that Mr. Menees could live in her home or in a residence on her property adjacent to her home. No children reside in Ms. Dusenberry's home. The home allows for easy monitoring of Mr. Menees. Ms. Dusenberry and her husband appear to be of suitable background and character to aid the Court in monitoring Mr. Menees. Further, the husband of Ms. Dusenberry has agreed to employ Mr. Menees. The nature and seriousness of the

danger to any person or the community that would be posed by the Mr. Menees's release are greatly diminished with a suitable third-party custodian, suitable residence, and suitable employment.

III. Remedy

Mr. Menees moves the Court to order his release pending trial on appropriate conditions of release.

IV. Prayer

WHEREFORE PREMISES CONSIDERED, Mr. Menees prays that in the above referenced and entitled cause, the Court release Mr. Menees pending trial pursuant to 18 U.S.C. § 3142, and grant Mr. Menees other such relief to which he may be entitled.

Respectfully submitted by,
/s/Cody L. Cofer
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CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2022, I electronically filed the foregoing document with the clerk for the U.S. District Court, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys for the parties.

/s/Cody L. Cofer
Cody L. Cofer

CERTIFICATE OF CONFERENCE

I hereby certify I conferred with the attorney for the Government. The Government does object to this motion.

I hereby certify I conferred with the attorney for the codefendants as currently charged. The attorney for the codefendant does not object to this motion.

/s/Cody L. Cofer
Cody L. Cofer